

Using contracts to set the stage for performance makes logical sense because expectations are written, binding, and defined at the outset. Training materials developed by the Office of the State Auditor acknowledge contracts as an important accountability tool. A staff member in the North Carolina Department of Justice summed it up: “Expectations should be clear at the front end, and then the grantees’ evaluation and communication back will be clear.” However, agency staff indicated contracts do not always set performance expectations. Without delineated expectations, there is no sure way to link performance to expectations, and accountability cannot exist without this link.

This situation is most challenging when grants are awarded to legislatively named grantees. Survey responses indicated 22% of grant programs distributed some funds to legislatively named grantees. Staff at one agency reported that program descriptions in legislation are sometimes too vague to guide performance measurement.¹⁵ Without a link to a grant application or contract, staff members must return to and attempt to interpret the often slim legislation establishing the earmark to come up with a project description that would let them know what to look for in terms of performance. Further, agency monitors may conduct less stringent oversight if they believe their authority to do so is unclear.

As interpreted by the North Carolina Budget Manual, N.C. Gen. Stat. § 143C-6-21 directs annual special appropriations of \$100,000 or less be paid to non-profit grantees in a single annual payment. Based on the form for requesting payment found in the Budget Manual, these payments are likely made in advance. Because disbursement by reimbursement (as opposed to disbursement in advance) has been identified as a best practice in the literature, requiring advance payment for grants of \$100,000 or less to legislatively named grantees compounds accountability weaknesses.

Grants to regional economic development partnerships exemplify the challenges of overseeing legislatively named grantees. According to staff at the North Carolina Department of Commerce, contracts with these partnerships are based on open-ended descriptions designed to provide maximum flexibility for these organizations to respond to sometimes unforeseen development opportunities. However, as described in a previous Program Evaluation Division study,¹⁶ the lack of expectations in these contracts means there are no benchmarks to guide performance oversight.

Performance-based contracting is one method that establishes clear expectations and an accountability framework before grantees begin delivering goods or services. Performance-based contracting usually incorporates some or all of several key features:

- emphasis on results related to output, quality, and outcomes;
- outcome orientation and clearly defined objectives and timeframes;

¹⁵ In a review of grants to non-profits, the Minnesota Office of the Legislative Auditor also cited this issue and recommended an emphasis on competitive grant funding over legislatively named grantees.

¹⁶ Program Evaluation Division. (2008, May). *Improving Regional Economic Development through Structural Changes and Performance Measurement Incentives*. Report to the Joint Legislative Program Evaluation Oversight Committee. Raleigh, NC: General Assembly.